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Immigrants Using Public Benefits Could Jeopardize Visas, Green Cards Under New Immigration Policy

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It's been almost four weeks since the Trump administration enacted the immigration policy that penalizes immigrants who have used or are deemed likely to use public benefits such as Social Security, public housing and food stamps.

As the new Inadmissibility on Public Charge Grounds policy takes effect, immigrant communities are grappling with fear, frustration and confusion.

Immigrants applying for a green card, visa or legal admission into the U.S. could be denied entry for their past or potential use of public benefits such as Supplemental Security Income, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, certain forms of Medicaid and certain housing programs. Any applicant who has received public benefits for more than 12 months within any 36-month period would be considered a public charge.

The public charge rule impacts immigration applications postmarked Feb. 24 and beyond, but does not apply to refugees, asylum seekers, crime victims, trafficking victims, or domestic violence victims, among others. It also does not impact undocumented immigrants, who are typically ineligible for many federal assistance programs.

Alex George, an attorney at McEntee Law Group in Chicago, explained how the uncertainty created by the new immigration policy makes it difficult for experts to advise clients.

“Because consular officers, USCIS [United States Citizenship and Immigration Services] officers, have so much discretion, it is very difficult for me to advise on specifics because so much of it depends on the officer you get that day,” he said.

George explained that many law offices partner with immigrant aid organizations and lawyers across the country in order to collaborate and talk through different experiences immigrant cases are facing.

“This has only been out for a few weeks and it’s only slowly starting to be applied to cases. It’s only technically supposed to be applied to cases that were postmarked after Feb. 23,” George said. “But with that broad discretion, I can’t say for sure that I have a client go into an interview that they won’t ask them questions anyways. They very well could,”

USCIS officers look at a range of factors when deciding on an immigration application, including age, health, family status, assets, financial status, education and skills. But with the recent addition of public benefits usage, many immigrants are unsure of which public benefit programs will count against their application and which ones won’t.

George used the example of food stamps, explaining there are multiple public benefit programs that are considered part of the food stamps or SNAP programs. But not all of them are considered a public charge under the new rule. An immigrant’s use of Supplemental Nutrition Assistance Program (SNAP) would be considered a public charge, while use of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) would not.

“What is so deeply concerning about this is there are benefits that are clearly listed as exceptions to the public charge rule that are really important, like emergency healthcare for children and pregnant people. And [people] may or may not use them because they’re scared that now or down the line, this could hurt them if they applied for some type of immigration benefits.”

The Cato Institute, a public policy research organization, used Census Bureau data from 2017 and found that legal immigrant consumption of welfare benefits is 39% less than for native born Americans and that immigrants consume 27% fewer benefits relative to native born Americans with similar incomes and ages.

“I think there’s this weird myth that immigrants are using a lot of public benefits, when the reality is there’s only a certain number of them that they even qualify for,” George said. “Immigrants are paying taxes that support these programs and they can only benefit from them in a very narrow set of circumstances.”

Data by Pew Research Center details a comparison of the number of U.S. born citizens to legal foreign born citizens in the top 10 largest populations, by state in the country.

The bottom line of the public charge policy is the hindrance of immigrants being able to enter the U.S by expanding the criteria by which an applicant could be denied legal entrance. Fred Tsao, senior policy advisor at Illinois Coalition for Immigrant and Refugee Rights, explained the broader implications public charge creates for immigrants across the country.

“On top of all that, it could have some very real effect so far as limiting the ability of many people who have ties to the community to finally get a green card, or for that matter for many relatives of US citizens or potential workers here in the country to get a visa and immigrate here.”

The Trump administration’s Inadmissibility on Public Charge Grounds was originally set to be implemented in October, but after multiple states challenged the policy, including Illinois, the federal government halted implementation. The U.S. Supreme Court ruled in favor of the Trump administration in a 5-4 ruling, allowing the public charge rule to go into effect nationwide on Feb. 24.

Illinois including several other states still have pending lawsuits against the public charge rule, which are expected to proceed.